



Memorandum

TO: Honorable Mayor &
City Council Members

FROM: Lee Price, MMC
City Clerk

SUBJECT: The Public Record
September 17-24, 2009

DATE: September 25, 2009

ITEMS TRANSMITTED TO THE ADMINISTRATION

- (a) Letter from Senior Citizens Commission Chair Frances Jones to Mayor Reed and City Council dated September 17, 2009 writing on behalf of the Commission recommending that the Mayor and City Council continue to support the vacancy control section of the Mobilehome Rent Control Ordinance.
- (b) Letter from Senior Citizens Commission Chair Frances Jones to Mayor Reed and City Council dated September 17, 2009 writing on behalf of the Commission recommending that written criteria be developed for re-appointment to all Boards, Commissions and Committees and that an appeal process be added.
- (c) Letter from Senior Citizens Commission Chair Frances Jones to Councilmember Constant and City Council dated September 17, 2009 writing on behalf of the Commission recommending Mr. Galvin Jackson be appointed to the commission.
- (d) Notification letter from T-Mobile to Consumer Protection and Safety Division dated September 18, 2009 regarding T-Mobile West Corporation as successor in interest to Omnipoint Communications, Inc. d/b/a T-Mobile (U-3056-C) for Site No. SF24496A.
- (e) Notice of Opportunity to Comment from State Water Resources Control Board to City Clerk Lee Price dated September 17, 2009.
- (f) Letter from David S. Wall to Mayor Reed and City Council dated September 22, 2009 regarding "Downtown Baseball: "Land acquisitions" for "legitimate Redevelopment Housing Projects"?"
- (g) Letter from David S. Wall to Mayor Reed and City Council dated September 24, 2009 regarding "The Ghetto Life: Update on the SCEP".
- (h) Letter from David S. Wall to Mayor Reed and City Council dated September 24, 2009 regarding "Downtown "Bait and Switch"; Market Rate Townhome projects shelved for potential slums?"

Honorable Mayor and City Council Members
September 25, 2009
Subject: The Public Record: September 17-24, 2009

- (i) Letter from David S. Wall to Mayor Reed and City Council dated September 22, 2009 regarding "Inform City Employees of budget cuts and layoffs before holiday season. (#5)".



Lee Price, MMC
City Clerk

LP/np

Distribution: Mayor/Council
City Manager
Assistant City Manager
Assistant to City Manager
Council Liaison
Director of Planning
City Attorney
City Auditor
Director of Public Works
Director of Finance
Public Information Officer
San José Mercury News
Library

**SENIOR CITIZENS COMMISSION**

5730 Chamberlin Drive
San Jose, California 95118
Tel: (408) 979-7915
Fax: (408) 979-0536

September 17, 2009

Mayor Chuck Reed
Members of the San José City Council
City Hall
200 East Santa Clara Street
San José, CA 95113

Dear Honorable Mayor Reed and City Council:

On behalf of the San José Senior Citizens Commission, I am recommending that the Mayor and City Council continue to support the vacancy control section of the Mobilehome Rent Control Ordinance. The Senior Commission recognizes that for many San Jose residents, mobilehomes are their only affordable housing option. If vacancy control is removed from the Mobilehome Rent Control Ordinance, each time a home sells, the park owners could raise the rent, thus reducing the overall number of units of affordable mobilehomes. The loss of each such mobilehome unit is a loss of a critical unit of the overall stock of affordable homes in San Jose.

Since turnover in Senior mobilehomes is frequently higher than in family parks, due to death and illnesses that require relocation to assisted care facilities, the loss of vacancy control would have a disastrous impact on seniors, the overwhelming majority of whom are on fixed incomes.

The Senior Commission thanks the Mayor and Council for their previous support on this issue and urges that they continue to support vacancy control in the Mobilehome Rent Control Ordinance.

Sincerely,

Frances Jones,

Chair, Senior Citizens Commission

/LB

cc: Pete Constant, Councilmember, Dist. 1
Debra Figone, City Manager
Albert Balagso, PRNS Director
Julie Edmond-Mares, PRNS Assistant Director
Angel Rios, PRNS Deputy Director
Dan Wax, PRNS, Division Manager
Diane Lindberg, PRNS Community Service Supervisor

✓ Lee Price, City Clerk
Ash Kalra, CD 2
Sam Liccardo, CD 3
Kansen Chu, CD 4
Nora Campos, CD 5
Pierluigi Oliverio, CD 6
Madison Nguyen, CD 7
Rose Herrera, CD 8
Judy Chirco, CD 9
Nancy Pyle, CD 10
Meghan Revolinsky, Assistant to CM Constant
Khoa Nguyen, Mayor's Policy Analyst
Correspondence Binder



PUBLIC RECORD b

SENIOR CITIZENS COMMISSION

5730 Chambertin Drive
San Jose, California 95118
Tel: (408) 979-7915
Fax: (408) 979-0536

September 17, 2009

Mayor Chuck Reed
Members of the San José City Council
City Hall
200 East Santa Clara Street
San José, CA 95113

Dear Honorable Mayor Reed and City Council:

On behalf of the San Jose Senior Citizens Commission, I am recommending that written criteria be developed for re-appointment to all Boards, Commissions and Committees and that an appeal process be added. The Senior Commission believes that written criteria would be an excellent way to make clear to citizens of San Jose who are applying for re-appointment the standards by which they can expect to be judged. Written criteria could present a transparent standard, which when equally applied, would level the playing field for those candidates seeking re-appointment.

Recently the Senior Commission experienced a situation whereby one of our members was not re-appointed and there is concern that criteria needs to be established to avoid even the appearance of inequity. An appeal process would also empower the candidate for re-appointment, and any supporters he or she might wish to have address the issue, to give input before simply receiving a letter from the City Clerk stating that their application was denied.

Establishing such written criteria, along with a meaningful appeals process, benefits the entire City of San Jose.

Sincerely,

Frances Jones,
Chair, Senior Citizens Commission

/LB

cc: Pete Constant, Councilmember, Dist. 1
Debra Figone, City Manager

Albert Balagso, PRNS Director
Julie Edmond-Mares, PRNS Assistant Director
Angel Rios, PRNS Deputy Director
Dan Wax, PRNS, Division Manager
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SENIOR CITIZENS COMMISSION

5730 Chambertin Drive
San Jose, California 95118
Tel: (408) 979-7915
Fax: (408) 979-0536

September 17, 2009

Councilmember Pete Constant
Members of the San José City Council
City Hall
200 East Santa Clara Street
San José, CA 95113

Dear Mr. Constant,

On behalf of the San Jose Senior Commission by a majority vote we respectfully request that you recommend Mr. Galvin Jackson be appointed to the commission.

Sincerely,

Frances Jones,
Chair, Senior Citizens Commission

/LB

cc: Pete Constant, Councilmember, Dist. 1
Debra Figone, City Manager
Albert Balagso, PRNS Director
Julie Edmond-Mares, PRNS Assistant Director
Angel Rios, PRNS Deputy Director
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Meghan Revolinsky, Assistant to CM Constant
Khoa Nguyen, Mayor's Policy Analyst
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RECEIVED
San Jose City Clerk
2009 SEP 25 A 9:27



T-MOBILE WEST CORPORATION a
Delaware Corporation
1855 Gateway Boulevard, 9th Floor
Concord, CA 94520

September 18, 2009

PUBLIC RECORD d

Anna Hom
Consumer Protection and Safety Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

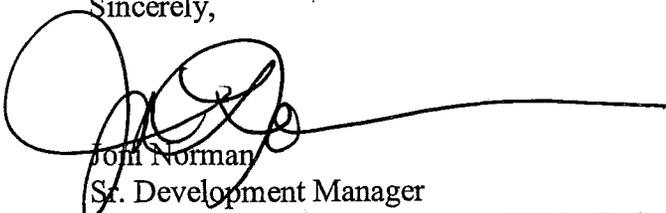
**RE: T-Mobile West Corporation as successor in interest to Omnipoint Communications,
Inc. d/b/a T-Mobile (U-3056-C).
Notification Letter for T-Mobile Site No. SF24496A:**

This letter provides the Commission with notice pursuant to the provisions of General Order No. 159A of the Public Utilities Commission of the State of California (CPUC) that with regard to the project described in Attachment A:

- (a) T-Mobile has obtained all requisite land use approval for the project described in Attachment A.
- (b) No land use approval is required because

A copy of this notification letter is being sent to the local government agency identified below for its information. Should the Commission or the local government agency have any questions regarding this project, or if anyone disagrees with the information contained herein, please contact Joni Norman, Senior Development Manager for T-Mobile, at (925) 521-5987, or contact Ms. Anna Hom of the CPUC Consumer Protection and Safety Division at 415-703-2699.

Sincerely,


Joni Norman
Sr. Development Manager
T-MOBILE WEST CORPORATION a Delaware corporation

Enclosed: Attachment A

CC:

Debra Figone City Manager, City of San Jose, 200 East Santa Clara St., San Jose CA 95113
Joseph Horwedel, Planning Director, City of San Jose, 200 East Santa Clara St., San Jose CA 95113
Lee Price, City Clerk, City of San Jose, 200 East Santa Clara St., San Jose CA 95113

ATTACHMENT A

1. Project Location

Site Identification Number: SF24496A

Site Name: Alameda Office Ctr

Site Address: 1625 The Alameda, San Jose, CA 95126

County: Santa Clara

Site Location: San Jose, CA

Assessor's Parcel Number: 261-46-001

Latitude: 37° 20' 07.64" N

Longitude: 121° 55' 02.75" W

2. Project Description

Number of Antennas to be installed: Six (6) Antennas

Tower Design: Office building rooftop

Tower Appearance: Antennas to be flush mounted on existing building wall and painted to match.

Tower Height: 116'

Size of Buildings: Equipment lease area on rooftop is 220 sq ft

3. Business Addresses of all Governmental Agencies

Debra Figone City Manager, City of San Jose, 200 East Santa Clara St., San Jose CA 95113

Joseph Horwedel, Planning Director, City of San Jose, 200 East Santa Clara St., San Jose CA 95113

Lee Price, City Clerk, City of San Jose, 200 East Santa Clara St., San Jose CA 95113

4. Land Use Approvals

Date Zoning Approval Issued: On September 11, 2009, the City of San Jose issued a Development Permit Adjustment

Land Use Permit #: AD09-823

If Land use Approval was not required: N/A



Linda S. Adams
Secretary for
Environmental Protection

State Water Resources Control Board

Charles R. Hoppin, Chairman
1001 I Street • Sacramento, California 95814 • (916) 341-5455
Mailing Address: P.O. Box 100 • Sacramento, California • 95812-0100
Fax (916) 341-5621 • <http://www.waterboards.ca.gov>



Arnold Schwarzenegger
Governor

NOTICE OF OPPORTUNITY TO COMMENT

PROPOSED APPROVAL OF AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE SAN FRANCISCO BAY REGION (BASIN PLAN) TO ESTABLISH NEW WATER QUALITY OBJECTIVES, TOTAL MAXIMUM DAILY LOADS (TMDLs), AND AN IMPLEMENTATION PLAN, AND TO VACATE AN EXISTING WATER QUALITY OBJECTIVE, FOR MERCURY IN THE GUADALUPE RIVER WATERSHED

NOTICE IS HEREBY GIVEN THAT the State Water Resources Control Board (State Water Board) will accept comments on the proposed approval of an amendment to the Basin Plan that would establish TMDLs for mercury in the Guadalupe River watershed. The amendment will also establish two new water quality objectives for mercury while vacating the existing water quality objective. The amendment, the State Water Board agenda language, and draft resolution are available on the State Water Board's Web site at http://www.waterboards.ca.gov/water_issues/programs/tmdl/index.shtml#rb2 or can be received by mail by contacting Peter Martin Jr., at (916) 341-5557. The amendment was adopted by the San Francisco Bay Regional Water Quality Control Board (San Francisco Bay Water Board) on October 8, 2008. The State Water Board will separately publish a notice of the meeting at which it will consider approval of the amendment.

Comment letters to the State Water Board **must be received by 12:00 noon on October 19, 2009**. After the October deadline, State Water Board staff will not accept additional written comments unless the State Water Board determines that such comments should be accepted. Please send comments on the proposed State Water Board approval of the amendment to: Jeanine Townsend, Clerk to the Board, by email at (commentletters@waterboards.ca.gov) (if 15 megabytes in size or less), (916) 341-5620 (fax), or by mail addressed to State Water Resources Control Board, 1001 I Street, Sacramento, CA 95814. Please also indicate in the subject line, "**Comment Letter – Guadalupe River Watershed Mercury TMDLs.**"

Incorporation of Comments by Reference: Comments must specifically address the version of the amendment that is currently being considered for approval by the State Water Board. If similar or identical comments were submitted to the San Francisco Bay Water Board, the commenter must explain why and in what manner each of the responses provided by the San Francisco Bay Water Board to each comment was inadequate or incorrect. If the comment does not include such an explanation, the State Water Board will presume that the San Francisco Bay Water Board's response adequately addressed the commenter's concern.

Please direct questions about this notice to Peter Martin Jr., Division of Water Quality, at (916) 341-5557 (pmartin@waterboards.ca.gov) or Steven H. Blum, Office of Chief Counsel, at (916) 341-5177 (sblum@waterboards.ca.gov).

September 17, 2009
Date

Jeanine Townsend

Jeanine Townsend
Clerk to the Board

California Environmental Protection Agency

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STATE WATER RESOURCES CONTROL BOARD BOARD MEETING SESSION – DIVISION OF WATER QUALITY TBD

ITEM

SUBJECT

CONSIDERATION OF A RESOLUTION APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE SAN FRANCISCO BAY REGION (BASIN PLAN) TO ESTABLISH NEW WATER QUALITY OBJECTIVES, TOTAL MAXIMUM DAILY LOADS (TMDLs), AND AN IMPLEMENTATION PLAN, AND TO VACATE AN EXISTING WATER QUALITY OBJECTIVE, FOR MERCURY IN THE GUADALUPE RIVER WATERSHED

BACKGROUND

On October 8, 2008, the San Francisco Bay Regional Water Quality Control Board (San Francisco Bay Water Board) adopted Resolution R2-2008-0089 amending the Basin Plan to establish new mercury water quality objectives, vacate an existing mercury water quality objective, and establish TMDLs for mercury in seven waters of the Guadalupe Creek Watershed (Alamitos Creek, Guadalupe Creek, Guadalupe River, Guadalupe Reservoir, Almaden Reservoir, Calero Reservoir, and Lake Almaden). These waters are listed on the federal Clean Water Act (CWA) section 303(d) list as impaired for mercury. The main source of mercury is legacy mercury mining waste, which is found at and downstream of historic mine sites. The New Almaden Mining District in the headwaters of the Guadalupe River Watershed was at one time the largest-producing mercury mine in North America, and the world's fifth-largest. Typical of the time, waste management practices largely consisted of discarding roasted ores, or calcines, into and around creeks. Large winter storms would then wash the mercury-laden calcines downstream. The TMDLs are closely aligned with the San Francisco Bay mercury TMDL, which was approved by the State Water Resources Control Board (State Water Board) in 2007 and by the United States Environmental Protection Agency (U.S. EPA) in 2008.

In 1987, Santa Clara County issued a fish consumption advisory warning people against consuming fish from Guadalupe, Almaden, and Calero Reservoirs, Guadalupe and Alamitos Creeks, Guadalupe River, and percolation ponds along the river and creeks. In 2004, Guadalupe Reservoir had the highest recorded fish mercury concentrations in California. Because these waters do not meet water quality standards for mercury, CWA section 303(d) requires establishment of a TMDL. A TMDL specifies load allocations for nonpoint sources and waste load allocations for point sources that, when implemented, are expected to result in attainment of applicable water quality standards. State law requires an implementation plan and schedule to ensure that the TMDLs are met. The TMDLs address the mercury impairment and are designed to ensure that water quality standards will be achieved, and that beneficial uses in the watershed will be protected. The beneficial uses that are impaired by mercury are body contact recreation (REC1) (which includes sport fishing), preservation of wildlife habitat (WILD), and protection of rare and endangered species (RARE).

WATER QUALITY OBJECTIVES

The amendment establishes water quality objectives similar to those of the approved Walker Creek Watershed mercury TMDL, which empties into Tomales Bay in Marin County. The

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amendment vacates an outdated existing four-day water-column water quality objective and establishes two new freshwater numeric fish tissue-based water quality objectives for mercury. Replacement of the four-day average freshwater mercury objective with these fish tissue objectives reflects current scientific information and the latest U.S. EPA and U.S. Fish and Wildlife Service (USFWS) guidance.

The amendment also establishes numeric targets equal to the fish tissue water quality objectives. These objectives and targets are protective of aquatic organisms and wildlife, including piscivorous (fish-eating) birds, which are at the highest risk due to bioaccumulation of methylmercury. These targets are also protective of humans who consume as much as one meal per week of watershed fish.

These objectives and targets apply to fish consumed by piscivorous birds in the watershed. The objectives are:

- 0.05 milligrams (mg) methylmercury per Kilogram (kg) fish (average wet weight concentration measured in whole trophic level 3 fish) for fish from 5 up to 15 centimeters (cm) in length, and
- 0.1 mg methylmercury per kg fish (average wet weight concentration measured in whole trophic level 3 fish) for fish greater than 15 up to 35 cm in length.

TMDLs AND ALLOCATIONS

The amendment establishes numeric targets equal to the fish tissue water quality objectives of 0.05 mg methylmercury per kg of fish on a wet weight basis for fish size 5-15 cm in length, and 0.1 mg methylmercury per kg of fish on a wet weight basis for fish size between 15-35 cm in length. The TMDL establishes concentration-based allocations in water and sediment that, when attained, are expected to lead to attainment of the methylmercury fish tissue targets and the fish tissue objectives.

The TMDL allocations, which are expressed in terms of mercury concentration in sediment runoff and wastewater discharges, are designed to achieve the TMDL fish-tissue targets. In other words, if dischargers meet the concentration-based allocations, the Regional Board calculated that the fish in these waters should meet the fish-tissue objectives for mercury. These TMDL targets will also ensure compliance with the allocation assigned by the San Francisco Bay mercury TMDL to the Guadalupe River Watershed. The amendment establishes two TMDLs for the Guadalupe River Watershed: one for impaired creeks and rivers, and one for reservoirs and lakes. The TMDLs are expressed as mercury concentrations in suspended sediment for impaired creeks and rivers, and methylmercury concentrations in the water column for reservoirs and lakes.

For impaired creeks and rivers in the watershed (Alamitos Creek, Guadalupe Creek, and Guadalupe River) the TMDL target is 0.2 mg mercury per kg suspended sediment (dry weight, annual median). For reservoirs and lakes in the watershed (Guadalupe Reservoir, Almaden Reservoir, Calero Reservoir, and Lake Almaden), the TMDL target is 1.5 nanograms (ng) total methylmercury per liter of water, represented as a seasonal maximum measured in the hypolimnion (deep) layer of the lake or reservoir. A 5 percent explicit margin of safety has been incorporated into the TMDL for the methylmercury allocation. An implicit margin of safety has been included by using the most protective level of trophic level 3 fish for the numeric fish-tissue based water quality objectives.

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Load allocations were established for mining waste, impaired waterways, nonurban stormwater runoff, atmospheric deposition, and methylmercury production in reservoirs and lakes. A wasteload allocation was established for urban stormwater runoff. The load allocation for mining waste in the Guadalupe River Watershed is 0.2 mg mercury per kg erodible¹ mercury mining waste (dry weight, median). The load allocation assigned to mercury-laden sediment discharged from depositional features in the impaired waterways is also 0.2 mg mercury per kg erodible sediment (dry weight, median). Nonurban stormwater runoff discharges are given a load allocation of 0.1 mg mercury per kg of suspended sediment (dry weight, annual median). Atmospheric deposition is assigned a load allocation 0.02 mg mercury per square meter of water surface per year, equal to the rate established in the San Francisco Bay TMDL. For reservoirs and lakes, the load allocation is 1.5 ng total methylmercury per liter of water (seasonal maximum, measured in the hypolimnion). Finally, a wasteload allocation of 0.2 mg mercury per kg of suspended sediment (dry weight, annual median) is given to urban stormwater runoff.

IMPLEMENTATION

The TMDLs for mercury in the Guadalupe River Watershed will be implemented in two phases, with targets to be achieved in 20 years. Mercury mining waste control actions are phased so that mercury discharges from upstream will be eliminated or significantly reduced (in the first 10 years) before downstream projects are undertaken (in the second 10 years).

The amendment uses an adaptive implementation plan which will use data and relevant scientific information to indicate the progress towards meeting the fish tissue targets. The San Francisco Bay Water Board will receive an annual report from its staff on implementation progress, and it will evaluate information from implementation actions, monitoring, special studies, and scientific literature. A comprehensive review of progress and prospects for achieving the TMDLs will be conducted 10 years from the effective date. At that time, the San Francisco Bay Water Board will evaluate the TMDL and the progress that has been made in the implementation plan if necessary to ensure attainment of fish tissue targets in a timely manner.

MONITORING

The monitoring program together with the special studies will measure progress in attaining the goals of this TMDL project and inform the adaptive implementation process. Specifically, the monitoring program encompasses the following:

- Monitoring to ensure continued effectiveness of erosion control measures to reduce discharges of mercury mining wastes, including mercury-laden sediment,
- Monitoring of mercury load at the points of discharge to demonstrate progress in reducing loads,
- Fish tissue mercury monitoring to assess progress in attaining targets,

¹ "Erodible" refers to materials readily available for transport by stormwater runoff to surface waters.

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- Monitoring of mercury load to San Francisco Bay to assess progress in attaining the legacy and urban stormwater runoff mass load allocations assigned by the Bay mercury TMDL, and
- Special studies to inform adaptive implementation of these TMDLs.

The San Francisco Bay Water Board stated that it will compel the responsible parties to conduct monitoring through Water Code §13267 and §13304 orders, and other authorities as needed. Although the responsible parties are required to satisfy the monitoring requirements individually, the San Francisco Bay Water Board encourages a coordinated watershed approach particularly for mercury in fish tissue and loads to San Francisco Bay. The San Francisco Bay Water Board stated that it will collaborate with other resource agencies to coordinate fish monitoring, to leverage their expertise and, where possible, to coordinate and achieve multiple objectives.

ECONOMIC CONSIDERATIONS

The implementation costs associated with required actions in the Basin Plan amendment have been estimated for all source categories as required by Public Resources Code §21159. An upper and lower range of cost estimates has been provided. There is uncertainty about the actual costs due to a lack of knowledge on the extent of the impact of mercury mining waste in the watershed and the developmental state of water column methylmercury controls. In many cases, the particular elements of the implementation action are required to be developed and implemented at a future time, and, therefore, the specifics are unknown. Cost estimates are projected for the 20 years of phased implementation planned for in this TMDL project.

In the first phase of implementation, the Basin Plan amendment requires that responsible parties control erosion of mercury mining waste and conduct monitoring at historic mercury mining operations. For these mining operations, remedial costs are estimated at \$800,000 per acre, which includes project management, administration, design, and permitting. Since the size, preferred method of remediation, and complexity is uncertain for most of the legacy sites, a wide range of \$23 million to \$680 million was estimated for one-time costs associated with erosion control and cleanup measures. Annual costs over the 20-year implementation time frame for mercury mines also include monitoring and maintenance of erosion control measures, and were estimated at \$10,000 to \$50,000 per year.

There are no costs associated with the TMDL for impaired waterways, namely depositional areas in creeks and the Guadalupe River downstream of mercury mines. The Basin Plan amendment does not require responsible parties to undertake any new or additional actions in depositional areas. However, it anticipates that public agencies will seek funding for and implement cleanup and restoration of highly-polluted Alamitos Creek for stream stewardship and flood control purposes, at an estimated cost of \$135 million to \$270 million.

The TMDL requires the Santa Clara Valley Water District (District), which is the party responsible for lakes and reservoirs, to conduct technical studies of hypolimnion methylmercury controls and other reservoir management techniques that have the potential to reduce bioaccumulation of mercury, and implement all reasonable and feasible control actions. The District has already begun technical studies and pilot projects employing solar powered water circulators in reservoirs. It has created a three-phase project to evaluate this technology and its feasibility with an estimated one-time cost of \$1.5 million. An alternate technology using direct delivery of liquid oxygen or ozone is also a possibility if the solar powered water circulators are not effective. The associated one-time cost of this alternative is estimated at 10 times the cost

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of solar powered circulators, which equals approximately \$15 million. Annual costs associated with these technologies are estimated to range from \$40,000 to \$400,000.

No additional costs for urban stormwater runoff are associated with implementation actions required by the TMDL because the amendment does not require responsible parties to take any additional actions beyond those already required by the San Francisco Bay mercury TMDL.

The TMDL requires monitoring to assess attainment of fish tissue targets and to monitor mercury loads flowing into San Francisco Bay. Fish tissue monitoring will occur at least 15 times over the 20-year timeframe at an annual cost of approximately \$100,000. The San Francisco Bay Water Board estimates that required monitoring of mercury loads to San Francisco Bay will cost approximately \$300,000. Special studies may also be required to determine progress for TMDL attainment and source control at an estimated cost of \$200,000 dollars annually. San Francisco Bay Water Board staff is currently working with implementing parties, including the District and urban storm water runoff dischargers, to create a coordinated watershed monitoring effort.

POLICY ISSUE

Should the State Water Board approve the amendment to the Basin Plan to establish new mercury water quality objectives, vacate an existing objective, and establish TMDLs and an implementation plan to reduce mercury in the Guadalupe Creek Watershed?

FISCAL IMPACT

San Francisco Bay Water Board and State Water Board staff work associated with or resulting from this action will be addressed with existing and future budgeted resources.

REGIONAL WATER BOARD IMPACT

Yes, approval of this resolution will amend the San Francisco Bay Water Board's Basin Plan.

STAFF RECOMMENDATION

That the State Water Board:

1. Approves the amendment to the Basin Plan adopted under San Francisco Bay Water Board Resolution R2-2008-0089.
2. Authorizes the Executive Director, or designee, to transmit the amendment adopted under San Francisco Bay Water Board Resolution R2-2008-0089 to the Office of Administrative Law and the TMDL to U.S. EPA for approval.

State Water Board action on this item will assist the Water Boards in reaching Goal 1 of the Strategic Plan Update: 2008-2012 to implement strategies to fully support the beneficial uses for all 2006-listed water bodies by 2030. In particular, approval of this item will assist in fulfilling Action 1 to prepare, adopt, and take steps to carry out Total Maximum Daily Loads (TMDLs), designed to meet water quality standards, for all impaired water bodies on the 2006 list.

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STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2009-

APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE SAN FRANCISCO BAY REGION (BASIN PLAN) TO ESTABLISH NEW WATER QUALITY OBJECTIVES, TOTAL MAXIMUM DAILY LOADS (TMDLs), AND AN IMPLEMENTATION PLAN, AND TO VACATE AN EXISTING WATER QUALITY OBJECTIVE, FOR MERCURY IN THE GUADALUPE RIVER WATERSHED

WHEREAS:

1. On October 8, 2008, the San Francisco Bay Regional Water Quality Control Board (San Francisco Bay Water Board) adopted Resolution R2-2008-0089 amending the Basin Plan to establish new water quality objectives, vacate an existing water quality objective, and establish TMDLs for the Guadalupe River Watershed.
2. The amendment meets the necessity standard of the Administrative Procedures Act, Government Code section 11353, subdivision (b).
3. San Francisco Bay Water Board found that the adoption of this amendment would be consistent with the State Antidegradation Policy (State Water Board Resolution No. 68-16) and federal antidegradation requirements (40 Code of Federal Regulations 131.6).
4. The rescission of the four-day average total mercury water quality objective and the adoption of two fish tissue methylmercury objectives is not anticipated to lower water quality because the new objectives are more stringent and based on more current scientific understanding of mercury bioaccumulation. The TMDL implementation plan is designed to attain the existing Basin Plan narrative water quality objective for bioaccumulation and the two Basin Plan fish tissue water quality objectives for methylmercury. Therefore, because the San Francisco Bay Water Board's action will maintain the level of water quality necessary for the protection of the existing uses, the action is consistent with state and federal antidegradation requirements.
5. The process of basin planning has been certified by the Secretary for Resources as exempt from the requirements of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) to prepare an Environmental Impact Report or Negative Declaration. The Basin Plan amendment package includes a Staff Report, an Environmental Checklist, a response to comments, an assessment of the potential environmental impacts of the Basin Plan amendment, a discussion of reasonably foreseeable methods of compliance, and the impacts and potential costs thereof, and a discussion of alternatives. The San Francisco Bay Water Board found that the Basin Plan amendment, Environmental Checklist, Staff Report, and documentation serve as a substitute environmental document under the State Water Resources Control Board's (State Water Board's) certified regulatory program and comply with the requirements of the State Water Board's certified regulatory CEQA process, as set forth in the California Code of Regulations, Title 23, section 3775 et seq.

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6. The State Water Board finds that the Basin Plan amendment is in conformance with Water Code section 13240, which specifies that Regional Water Quality Control Boards may revise Basin Plans; section 13241, which authorizes Regional Water Quality Control Boards to establish water quality objectives; section 13242, which requires a program of implementation of water quality objectives; and section 13243 which authorizes Regional Water Quality Control Boards to specify certain conditions or areas where the discharges of certain types of waste will not be permitted. The State Water Board also finds that the two TMDLs, as reflected in the Basin Plan amendment, are consistent with the requirements of federal Clean Water Act section 303(d).
7. The amendment establishes numeric targets equal to the fish tissue water quality objectives of 0.05 milligrams (mg) methylmercury per kilogram of fish on a wet weight basis for fish size 5-15 centimeters (cm) in length, and 0.1 mg methylmercury per kilogram of fish on a wet weight basis for fish size between 15-35 cm in length.
8. The Basin Plan amendment does not become effective until approved by the State Water Board and until the regulatory provisions are approved by the Office of Administrative Law (OAL). The TMDL must also be approved by the U.S. Environmental Protection Agency (U.S. EPA).

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves the amendment to the Basin Plan adopted under San Francisco Bay Water Board Resolution R2-2008-0089.
2. Authorizes the Executive Director, or designee, to transmit the amendment adopted under San Francisco Bay Water Board Resolution R2-2008-0089 to OAL and the TMDL to U.S. EPA for approval.

CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on (TBD).

Jeanine Townsend
Clerk to the Board

David S. Wall
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RECEIVED
 San Jose City Clerk

September 22, 2009

2009 SEP 24 P 4: 11

Mayor Reed and Members San José City Council
 200 East Santa Clara Street
 San José, California 95113-1905

Re: Downtown Baseball: "Land acquisitions" for "legitimate Redevelopment Housing Projects"?

If voters vote for a ballpark... they will also be voting for Eminent Domain of private homes.

San José Municipal Code 4.95.010: "Prohibition of the use of tax dollars to build a sports facility."

"The city of San José may participate in the building of a sports facility using tax dollars only after obtaining a majority vote of the voters of the city of San José approving such expenditure."

"A "sports facility" for the purpose of this chapter is to be any structure designed to seat more than five thousand people at any one time for the purpose of viewing a sporting event."

"Tax dollars" for the purpose of this chapter include, without limitation, any commitment to fund wholly in part said facility with general fund monies, redevelopment fund monies, bonds, loans, special assessments or any other indebtedness guaranteed by city property, taxing authority or revenues."

"Nothing herein shall be construed to limit the city from allowing the construction of a sports facility funded by private investment."

"If any provision of this chapter or the application thereof to any person or circumstance is held invalid, then the remainder of this chapter and application to other persons or circumstances shall not be affected thereby."

Are RDA Land Acquisitions for a ballpark or for housing projects?

(YOU better call them, "Housing Projects" to avoid the Ordinance.)

The Redevelopment Agency can acquire the land for stated "housing projects" then, at some point in the future the official designation of these properties can be redefined for use as a "specific ballpark project".

"Once a specific ballpark project has been defined, voter approval would be required prior to using eminent domain to acquire property for a potential ballpark site."

Calling "expensive land acquisitions" by the Redevelopment Agency, "legitimate housing projects"; when in all reality, assembling the parcels "suddenly" is for a ballpark, is the aforementioned; a lie, a bold face lie, a scam or just a compendium of disgustingly corrupt acts?

San José Voters will decide. A "Yes" vote for a ballpark will give Council cause to nullify the "housing projects" to wit, several expensive land acquisitions were based. The remaining private homes and properties will face Eminent Domain. A "No" vote for a ballpark will leave the RDA with some expensive real estate going nowhere.

This "ballpark scheme" should have gone to the voters from day one.

Respectfully submitted,

David S. Wall
 09.24.09

Cc: City Attorney / City Auditor / City Manager

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PUBLIC RECORD 9

RECEIVED
San Jose City Clerk

September 24, 2009

2009 SEP 24 P 4: 12

Mayor Reed and Members San José City Council
200 East Santa Clara Street
San José, California 95113-1905

Re: THE GHETTO LIFE: UPDATE ON THE SCEP

On Wednesday, (09.23.09) approximately 1514 hours, after the RULES AND OPEN GOVERNMENT COMMITTEE meeting, I ventured over to North Tenth Street @ Horning Street to "take the pulse" of the SCEP (Shopping Cart Entitlement Program). I arrived on station and found four (4) stolen and abandoned shopping carts. *A 20% decrease as to the number of stolen and abandoned shopping carts is hereby recorded.*

The big question concerning the SCEP; when will the San José City Council revoke the SCEP and direct Planning Building and Code Enforcement (PBCE) to design a menu of solutions for Council to discuss and debate to keep "shopping carts" from leaving the premises of the shopkeeper?

A new pile of Garbage is beginning to "pile up" behind the control box for the railroad crossing barricade. General litter, consistent with a ghetto, is present and left unabated.

Ownership of the stolen and abandoned shopping carts is as follows;

(No "plastic zip tied" carts with Julian dates present)

Unmarked (1), Target (1), Save Mart (1), and Fry's Electronics (1).

special note the overall cleanliness of shopping carts picked up off the streets and returned to stores should be addressed by some governmental agency. Unsuspecting customers may use excrement coated shopping carts without their knowledge. Shopping carts picked up off the street are "filthy".

No interviews this week.

No "encampments" were noted on the railroad tracks.

Manuel's chickens are so quiet I think they are using "sign language".

Respectfully submitted,

David S. Wall

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2009 SEP 24 P 4: 11

Mayor Reed and Members San José City Council
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Re: Downtown "Bait and Switch"; Market Rate Townhome project shelved for potential slums?

Did the Housing Department stab Japantown Neighbors and Councilmember Liccardo in the back?

Are Homeowners for a thousand foot radius going to be re-noticed of the change?

There is NO SUSTAINABLE WATER SUPPLY for any more "Housing Projects".

To **anyone** owning or living in a property within a thousand foot radius of North Tenth Street @ East Hedding Street, the City of San José Housing Department has a surprise for all of you.

Here's the rub. The fifty three (53) unit development project known as Cornerstone @ Japantown Family Townhomes is changing from the "publically declared market rate development" to the "*rental development market targeting; extremely low, very low and low income households*".

Is this Land Use "change" a variation of the old tactic of, "Bait and Switch"?

The issue; a special interest housing developer, develops the property under one set of guidelines of; "Market Rate and home ownership" (**The Bait**), and then due to "changes in the marketplace" cannot sell the Townhomes to finance debt service (and or make a profit).

The Developer then "*poor mouths*" their plight to City officials to allow (**The Switch**) to "Affordable Housing rentals" in order to b gain access to the City of San José Housing Department's dispersal of Federal Housing money (a.k.a. foreign debt) to service their debt structure (and or profit).

In my opinion, this is a material change in "Land Use" requiring NOTICE of property owners.

Have you been notified or allowed to voice your concerns? Have you been asked whether or not you want an; "**extremely low, very low and low income households**" housing project, a potential slum, in your neighborhood; driving down your already depressed property values? Will there be an increase in crime, congestion, blight and social debauchery associated with such government sponsored "Housing Projects"?

One problem of "**extremely low, very low and low income households**" is that they cannot afford to live here in the first place. Subsidized rent is an illusory promise of hope and only a few people will profit.

Developers, Politicians, the highly paid and benefited City Housing Administration, are the main benefactors under the "Affordable Housing" moniker. Not to forget those who receive taxpayer subsidized rent.

Borrowing money to subsidize rents of "Affordable Housing Projects" will eventually collapse. The money will run out. What happens then? Where will the money come from to maintain these properties and the services required to combat crime, blight and other infrastructure woes? The City of San José is broke.

Questions? Call Councilmember Liccardo's Office @ 535-4903.

Respectfully submitted,

Cc: City Attorney / City Auditor / City Manager

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RECEIVED
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September 24, 2009

2009 SEP 24 P 4: 10

Mayor Reed and Members San José City Council
200 East Santa Clara Street
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Re: Inform City Employees of budget cuts and layoffs before holiday season. (#5)

Council should set budget priorities by Department.

Where is the Office of City Manager? "Thinking outside the box" happily at Club Wet?

How much warning did RDA employees receive?

I have now requested, for the fifth time, that City employees be notified of the next series of layoffs *before* the holiday season. So far, "No" warnings have been tendered and "No" menus of solutions for Council's perusal has been publically acknowledged.

As reported in today's San José Mercury News (Thursday, 09.24.09), "*RDA cuts staff by 22%*", how much warning did these City employees receive?

Keep reading the newspapers; note the continuous flow of "**NOTICE OF DEFAULTS**". This is an indicator signaling the collapse of the General Fund. There are others. Soon this will start to include "high rise" or "high density" living projects.

YOU should all have the decency to give timely and accurate financial reports to City employees as to the state of their jobs. But, so far, YOU have not.

January 2010 and the following months thereafter will see dramatic changes in City operations. How many City employees are going to lose their jobs and health care?

YOU can help mitigate these feelings by being forthright with the financial realities facing City coffers and by giving direction to the Office of the City Manager to do the following:

1. Inform City employees as to the intentions of the administration as the financial conditions worsen and how the layoffs will be prioritized. Now.
2. Create menus of options to protect City employees and their healthcare benefits for Council to discuss and debate within one week and every week thereafter until all hope is lost. What has the Office of the City Manager done in this regard? Nothing?

September is almost over. Next Thursday is October 1st.

Cc: City Attorney / City Auditor / City Manager

Respectfully submitted,

David S. Wall
09.24.09